To: Shirene Willis Brantley, Senior Petitions Attorney, Office of Petitions

Patent number 6934515
Application number 09/891,234 (filed June 27 2001)

Remarks and questions about dismissal of petition to accept delayed payment of maintenance fees

1) The petitioner in his Sept 21, 2011 petition **did not blame** the USPTO for its apparent failure to update the withdrawl of the attornies and change of mailing address that was officially and properly filed by Caleb Pollak way back in Sept 2006 .
2) The USPTO in its decision acknowledged de-facto that this official filing was **ignored** for 5 years, but failed to mention or explain why when finally the fee address was updated on Oct 2011 following the above mentioned petition, all the attorneys of PCL law office that **withdrew** in 2006 were **still** left in the attorneys page of the case. In fact, petitioner patentee is **Pro Se** since mid 2006.
3) The petitioner, out of goodwill and acceptance that statistically a very small percentage of the filed procedures and petitions can go unattended sometimes, agreed to ignore this failure, go by the rules and pay the 700$ surcharge for unavoidable delay, and all this in order to **NOT** complicate things.
4) It was therefore a big slap in the face to read in the USPTO's decision on the petition that it insists to go by the book, while it was the USPTO **itself** that didn't follow its own book in this rare case, leading to the circumstances justifying the **indeed unavoidable** delay in payment of the maintenance fees.
5) As a **Pro Se** patentee that is not expected to employ a secretary for this single patent maintenance issue for over 3 years since 2006, not understanding at the time the exact nature of the USPTO's procedures, and without even remembering for sure if the patent fees paid (through a law office) in 2005 cover 3, 7 or 11 years, not being **ever** notified of the due fees or even about the expiration of the patent after the 6 months grace period, the Patentee had **no chance** to stand in the deadlines. In fact, hadn't there been a discussion with an attorney of a competing company, it would have **NEVER** been discovered that the patent had expired already in late 2009. A patent is an asset, just like a car that has to be registered, tested and certified every year, but this will most always be missed by a **private owner** (in contrast with a car rental company for example) without a registration renewal notice from the DMV. It just can't work otherwise.
6) The USPTO in its decision relies on 35 USC 41(c) (1) that allegedly does not mention a reminder or notice to patentees about due maintenance fees. This might be correct, but the Congress intention as expressed in USC 133 and 151 certainly **does** require a notification. Also, the fact is that the USPTO **DOES** notify each and every patentee around the end of the 6 months grace period, and does this for the last several **decades** . Without this (courtesy, yet absolutely essential) notification, the majority of Pro Se patentees busy with making a living would have no chance to comply.
7) The Wireless Avionics petition of Oct 21 explained how it found out about the expiration of the patent and why the lack of treatment (by the USPTO itself) of Caleb Polak's change address notification of Sept 2006 brought about the failure to know about and maintain the patent. There was nothing more to say after it was made clear that the USPTO's records show a **wrong** processing and a consequent wrong maintenance fee address. The USPTO's decision on the petition did not contradict this fault .
8) The failure to maintain the patent was not only because the mailing address was wrong. The wrong address prevented the reasonable and **prudent** Pro Se patentee to conduct a normal tracking of the maintenance and payment task. The difficulty to track and monitor a 3 years forward event was greatly enhanced up to a complete unavoidability. It was eventually a maintenance fees tracking failure on the part of Wireless Avionics, which is **expected** from a "reasonable prudent person" according to the classical USPTO definition of "unavoidable" , i.e: "rely on trustworthy agencies of mail and telegraph" . In this case, the (failing) trustworthy agency of mail was the USPTO itself. Who would expect this ?? On the same token, patentee could have been informed **by mistake** that he has ample time, or mailed a check **in time** which would have been ignored by the USPTO. Again, "unavoidable" circumstances.
9) We file this fax letter in lieu of an official petition for reconsideration, or a new reinstatement petition on the grounds of unintentionality, hoping that the USPTO will **ammend** its decision on its own accord.
10) Ammending the decision would be simply appropriate due to the above points. It will be highly appreciated. Our email is btawire@netvision.net.il for emailing responses or suggestions.

Thank you in advance,
Alon Wallach
Inventor, Patentee Pro Se .

October 26, 2011